

**ASSEMBLY BILL**

**No. 457**

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**Introduced by Assembly Member Monning  
(Coauthor: Assembly Member Emmerson)**

February 24, 2009

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An act to repeal and add Section 3144 of the Civil Code, relating to liens.

LEGISLATIVE COUNSEL'S DIGEST

AB 457, as introduced, Monning. Liens.

Existing law provides that a lien for a private work of improvement does not bind any property for more than 90 days after the recording of the claim of lien unless an action to foreclose the lien is commenced within that time in a proper court. The lien may continue in force, however, if credit is given and notice of the credit is recorded in the office of the county recorder after the recording of the lien and prior to the expiration of the 90-day period, but not longer than one year from the time of completion of the work of improvement.

This bill would revise and clarify those provisions. The bill would instead require the claimant to commence an action to enforce a lien within 90 days after recordation of the claim of lien and to record a notice of the pendency of the action, as specified, within 110 days after recordation of the claim of lien. If the claimant fails to commence the action and record the notice within the time required, the bill would provide that the claim of lien expires and is unenforceable. These provisions would not apply if the claimant and owner agree to extend credit and notice regarding the facts and terms of the extension of credit is recorded either within 90 days after recordation of the claim of lien or more than 90 days after recordation but before a purchaser or

encumbrancer for value and in good faith acquires rights in the property. Under those circumstances, the bill would provide that the lien expires and is unenforceable if the claimant does not commence an action to enforce the lien and record a notice of the pendency of the action within 90 days after the expiration of the credit, but, in no case, later than one year after completion of the work of improvement.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3144 of the Civil Code is repealed.

2 ~~3144. (a) No lien provided for in this chapter binds any~~  
3 ~~property for a longer period of time than 90 days after the recording~~  
4 ~~of the claim of lien, unless within that time an action to foreclose~~  
5 ~~the lien is commenced in a proper court, except that, if credit is~~  
6 ~~given and notice of the fact and terms of such credit is recorded~~  
7 ~~in the office of the county recorder subsequent to the recording of~~  
8 ~~such claim of lien and prior to the expiration of such 90-day period,~~  
9 ~~then such lien continues in force until 90 days after the expiration~~  
10 ~~of such credit, but in no case longer than one year from the time~~  
11 ~~of completion of the work of improvement.~~

12 ~~(b) If the claimant fails to commence an action to foreclose the~~  
13 ~~lien within the time limitation provided in this section, the lien~~  
14 ~~automatically shall be null and void and of no further force and~~  
15 ~~effect.~~

16 SEC. 2. Section 3144 is added to the Civil Code, to read:

17 3144. (a) The claimant shall commence an action to enforce  
18 a lien within 90 days after recordation of the claim of lien and shall  
19 record a notice of the pendency of the action under Title 4.5  
20 (commencing with Section 405) of Part 2 of the Code of Civil  
21 Procedure within 110 days after recordation of the claim of lien.  
22 If the claimant does not commence an action and record notice of  
23 the pendency of the action within the time provided in this  
24 subdivision, the claim of lien expires and is unenforceable.

25 (b) Subdivision (a) does not apply if the claimant and owner  
26 agree to extend credit, and notice of the fact and terms of the  
27 extension of credit is recorded (1) within 90 days after recordation  
28 of the claim of lien or (2) more than 90 days after recordation of  
29 the claim of lien but before a purchaser or encumbrancer for value

1 and in good faith acquires rights in the property. In that event the  
2 claimant shall commence an action to enforce the lien and record  
3 a notice of the pendency of the action within 90 days after the  
4 expiration of the credit, but in no case later than one year after  
5 completion of the work of improvement. If the claimant does not  
6 commence an action and record a notice of the pendency of the  
7 action within the time provided in this subdivision, the claim of  
8 lien expires and is unenforceable.

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